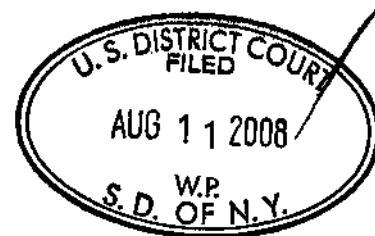


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
RAHSAAN BUTLER, a/k/a Rashan Butler,



Petitioner,
-----X
-against-

02 CV 05733 (KMK)(KNF)
JUDGMENT

BRIAN FISCHER, Superintendent Sing Sing
Correctional Facility

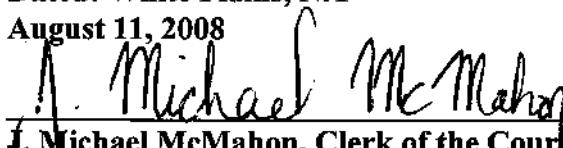
Respondent.
-----X

Whereas the above entitled action having been assigned to the Honorable Kenneth M. Karas, U.S.D.J., and the Court thereafter on August 8, 2008, having handed down an Opinion and Order (Docket #21) adopting the Report and Recommendation of the Honorable Kevin N. Fox, U.S.M.J. (Docket #13) dismissing the Petition for a writ of habeas corpus pursuant to 28 USC:2253(c)(1) & (2), with prejudice, it is,

ORDERED, ADJUDGED AND DECREED: that the Court adopts Magistrate Judge Kevin N. Fox's Report and Recommendation (Docket #13), since neither of Petitioner's claims warrants habeas relief, and because the Court recognizes that Petitioner's Batson claim presents a reasonably close question, the Court will grant Petitioner a certificate of appealability as to that claim alone, finding that Petitioner has made a substantial showing of the denial of a constitutional right pursuant to 28 UCS:2253(c)(1) & (2), and the case is hereby closed.

Dated: White Plains, N.Y

August 11, 2008


J. Michael McMahon, Clerk of the Court